

Sixth Appellate District

San Jose, California

MONDAY, AUGUST 25, 2003

H023320 BEACH PARK ASSOCIATRES v. HERON, et al.; HARRINGTON, et al.

The judgment is affirmed. Each side to bear its own costs on appeal. (not published)

(Wunderlich, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed August 25, 2003

H024719 HERON, et al. v. KELLEY WEST SANTA CLARA ASSOCIATES, et al.; L'OMELETTE

The judgment is affirmed. Costs on appeal to L'Omelette. (not published)

(Wunderlich, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed August 25, 2003

H024330 PEREZ v. SANTA CLARA COUNTY ELMWOOD MEN'S DIVISION

The March 4, 2002 judgment is affirmed. The March 26, 2002 order granting plaintiff's motion to tax costs is reversed, and the matter is remanded to permit the court to exercise its discretion on the County's request for costs. Costs for this appeal are awarded to the County. (published)

(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed August 25, 2003

TUESDAY, AUGUST 26, 2003

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Bamattre-Manoukian, J.; Wunderlich, J.; and R.W. Norvelle, Deputy Clerk.

H025634 THE PEOPLE v. SUPERIOR COURT; PEACOCK

Cause called and argued by Luis M. Ramos, Deputy District Attorney, appearing for Petitioner and by Leonard J. Cravens appearing for Real Party in Interest. Cause ordered submitted.

H024056 MATOZA v. NETSCAPE COMMUNICATIONS CORPORATION, et al.

Cause called and argued by Joseph Moskovitz appearing for Apepllant Matoza and by Jason McDonnell appearing for Appellant Netscape Communications Corporation, et al. Cause ordered submitted.

Sixth Appellate District

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Tuesday, August 26, 2003 (continued)

Premo, J. leaves the bench and Elia, J. assumes the bench.

H024775 S & A BIOTECH INVESTMENTS, LLC v. BARUCH, et al.

Cause called and argued by Robert S. Gana appearing for Appellant, by William L. Prickett appearing for Respondents Thomas Baruch, et al., and by David Michael Lisi appearing for Respondent Rodenstock North America, Inc. Cause ordered submitted.

H024649 GONZALEZ v. TOEWS, et al.

Cause called with Eric Hartman appearing for Appellant and by Duane Shewaga appearing for Respondents. Cause ordered submitted without oral argument pursuant to stipulation of copunsel. Court recesses until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Elia, J.; Bamattre-Manoukian, J.; and W. Magsaysay, Deputy Clerk.

H024839 PEOPLE v. KIDANE

Cause called and argued by Christopher C. Hite appearing for Appellant and by Frances M. Dogan, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023789 PEOPLE v. CASTALINE

Cause called and argued by Charles Bonneau appearing for Appellant and by David H. Rose, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024126 PEOPLE v. MATTOS

Cause called and argued by Brian A. Pori appearing for Appellant and by Amy Haddix, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024071 PEOPLE v. HENDERSON

Cause called and argued by Paul Kleven appearing for Appellant and by Jeffrey M. Bryant, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, August 26, 2003 (continued)

H025664 IN RE ANTHONY J., A MINOR

Cause called and argued by Stuart Fishman appearing for Appellant and by Susan Ware, Deputy County Counsel, appearing for Respondent. Cause ordered submitted.

H024761 CONWAY v. HOLMAN RANCH, et al.

Cause called and argued by Jeffrey A. Kopczynski appearing for Appellant and by Robert H. Wright appearing for Respondents. Cause ordered submitted. Court adjourns.

H023721 AUSTIN v. WISKEL, et al.

The order is reversed. On remand, the trial court shall award plaintiff such costs and fees as are recoverable under Code of Civil Procedure section 1141.21 unless the trial court "finds in writing and upon motion that the imposition of such costs and fees would create such a substantial economic hardship as not to be in the interest of justice." Plaintiff shall recover her costs on appeal. (not published)

(Mihara, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed August 26, 2003

H023433 PEOPLE v. NGUYEN, et al.

As to defendant Tran, the judgment is affirmed. As to defendant Nguyen, the judgment is reversed and the matter is remanded for the limited purpose of possible retrial on count two (§ 422) at the election of the prosecution. If the prosecution elects not to retry that charge, the court shall amend the abstract of judgment accordingly. (not published)

(Elia, J.; We concur: Rushing, P.J., Wunderlich, J.)

Filed August 26, 2003

H024645 PEOPLE v. DELEON, et al.

By the Court\*:

Appellant Deleon's petition for rehearing is denied.

Filed: August 26, 2003

\*Before Premo, Acting P.J., Elia, J. and Bamattre-Manoukian, J.

Sixth Appellate District

San Jose, California

Tuesday, August 26, 2003 (continued)

H024290 LOBAY v. CITY OF PACIFIC GROVE, et al.

By the Court\*:

Respondent's petition for rehearing is denied.

Filed: August 26, 2003

\*Before Rushing, P.J., Premo, J. and Elia, J.

H025546 PEOPLE v. GOLDSTEIN

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Elia, Acting P.J., Wunderlich, J.)

Filed August 26, 2003

H023788 PEOPLE v. CORTEZ

By the Court\*:

Appellant's petition for rehearing is denied.

Filed: August 26, 2003

\*Before Elia, Acting P.J., Wunderlich, J. and Mihara, J.

WEDNESDAY, AUGUST 27, 2003

H023538 COUNTY OF SANTA CLARA v. RUCKER

The judgment is affirmed. (not published)

(Wunderlich, J.; We concur: Rushing, P.J., Premo, J.)

Filed August 27, 2003

H024381 CULVER, et al. v. LITVIN, et al.

The judgment is reversed and remanded to the trial court with directions to dismiss the action with prejudice. The parties shall bear their own costs, and remittitur shall issue forthwith pursuant to the stipulation of the parties (Cal. Rules of Court, rule 144(b).) (not published)

(Mihara, J.; We concur: Rushing, P.J., Wunderlich, J.)

Filed August 27, 2003

H025170 PEOPLE v. NICHOLAS

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)

Filed August 27, 2003

Sixth Appellate District

San Jose, California

Wednesday, August 27, 2003 (continued)

H025147 WOLSCHLAGER v. FIDELITY NATIONAL TITLE INSURANCE COMPANY, et al.

(Filed order modifying opinion.) There is no change in the judgment.

The opinion in the above-entitled matter filed on July 29, 2003, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. (Rushing, P.J.; Premo, J., Elia, J.) (published)

Dated: August 27, 2003

H024062 RAYNOR, et al. v. DRUGE, et al.

The judgment is affirmed. (not published)  
(Wunderlich, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed August 27, 2003

THURSDAY, AUGUST 28, 2003

H024726 LINDOP, Acting Public Guardian, etc. v. DEFINA et al.

The order confirming sale of the real property is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Bamattre-Manoukian, J.)

Filed August 28, 2003

H024871 SAN JOSE PARKING, INC. v. THE SUPERIOR COURT OF SANTA CLARA COUNTY

(Filed order modifying opinion.) San Jose Parking, Inc., is entitled to costs on appeal. This modification changes the judgment as to costs only.

Real party in Interest's petition for rehearing is denied. (published)

(Rushing, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)

Filed August 28, 2003

H024804 PEOPLE v. COLEY

The judgment is modified to strike count four. In all other respects, the judgment is affirmed. (not published)

(Mihara, J.; We concur: Rushing, P.J., Wunderlich, J.)

Filed August 28, 2003

Sixth Appellate District

San Jose, California

FRIDAY, AUGUST 29, 2003

H025088 In re SELENA D.; DFCS v. CRYSTAL R.

The order of the juvenile court entered September 30, 2002 is affirmed (not published)

(Premo, J.; We concur: Rushing, P.J., Bamattre-Manoukian, J.)

Filed August 29, 2003

H024864 ANDRADE v. FISHER

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Bamattre-Manoukian, J., Wunderlich, J.)

Filed August 29, 2003

H025309 PEOPLE v. ALEX N.

The juvenile court's order committing Alex to the CYA is reversed, and the court is directed to vacate its true finding on the burglary allegation in the July 2002 petition. The court shall reconsider that allegation based solely on the evidence presented at the August 2002 jurisdictional hearing. (not published)

(Mihara, J.; We concur: Rushing, P.J., Wunderlich, J.)

Filed August 29, 2003

H024491 PEOPLE v. HENRY

This matter is remanded to the trial court for resentencing on count 2 and the strike allegation. The court is further ordered to issue factual findings regarding the applicability of section 654 to these convictions. (not published)

(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)

Filed August 29, 2003

H024649 GONZALEZ v. TOEWS, et al.

The judgment is affirmed. (published)

(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)

Filed August 29, 2003

H024520 COUNTY OF SANTA CRUZ v. ESPINO

The order modifying the defendant's child support obligation is reversed. (not published)

(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)

Filed August 29, 2003

Sixth Appellate District

San Jose, California

Friday, August 29, 2003 (continued)

H024406 PEOPLE v. SUWINSKY

The judgment is affirmed. (not published)  
(Mihara, J.; We concur: Elia, Acting P.J., Wunderlich, J.)  
Filed August 29, 2003